

FILED
CHARLOTTE, NC

AUG 28 2019

US DISTRICT COURT
WESTERN DISTRICT OF NC

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

BRIAN GREEN)

Plaintiff,)

vs.)

BANK OF AMERICA, N.A.)

ROBERT L. PERESICH)

GLASSER AND GLASSER, P.L.C.)

Defendants.)

Civil Action No. 3:19-cv-424-RJC

TRIAL BY JURY DEMANDED

ORIGINAL COMPLAINT

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

NATURE OF THE ACTION

I, Plaintiff Brian Green, *pro se*, bring this proceeding to challenge the actions of Defendants with regard to their unlawful attempt to collect an alleged consumer debt due another, on the grounds and in the amounts set forth herein.

Plaintiff alleges upon knowledge as to himself and his own acts, and as to all other matters upon information and belief, brings this complaint against the above-named Defendants and in support thereof alleges the following:

This action arises out of the facts and circumstances surrounding the attempts at collection of an alleged consumer debt. Plaintiff, an individual consumer, institutes this action for statutory damages, and the costs of this action against the Defendants to redress the deprivation of the rights granted to the Plaintiff by the Fair Debt Collection Practices Act, 15 U.S.C. §1692 *et.seq.* (hereinafter the "FDCPA", with further citations to the Act to take the form "§_," omitting the prefatory "15 USC").

JURISDICTION

1. This Court has jurisdiction under 15 U.S.C. §1692k(d), 28 U.S.C. §1331.

PARTIES

2. The Plaintiff, Brian Green ("Mr. Green") is a natural person and a consumer who resides in Union County, in the State of North Carolina as the term is defined by **15 U.S.C. § 1692a(3)**.
3. Defendant Glasser and Glasser, P.L.C. ("Glasser") is a debt collection company with offices located Crown Center, Suite 600, 580 East Main Street, Norfolk, Virginia 23510, is a registered foreign professional limited liability company with the State of North Carolina, who is engaged in the business of attempting to collect a "debt" as defined by **U.S.C. §1692a(5)**.
4. Defendant, Robert L. Peresich ("Peresich"), is a natural person, a licensed Virginia attorney, and was an employee of Defendant law firm at the time of the unlawful collection activity complained of herein.
5. Defendant Bank of America, N.A. ("BOA"), is a national banking association, organized and existing under the laws of the United States of America.
6. Defendants Glasser and Peresich are vicariously liable for the violations of the FDCPA committed by its attorney(s). See *Clark v. Capital Credit & Collection Serv.*, 460 F.3d 1162 (9th Cir. 2006); also *Fox v. Citicorp*, 15 F.3d 1507, 1516 (9th Cir. 1994).

VENUE

7. The occurrence which give rise to this action occurred in Union County, North Carolina and Plaintiff resided in Union County.
8. Venue is proper in the Western District of North Carolina.

FACTUAL ALLEGATIONS APPLICABLE TO ALL COUNTS

9. On or about January 20, 2019, Mr. Green received communication via direct mail from Glasser, retained by BOA to collect an alleged consumer debt.
10. On or about February 5, 2019, within the “validation period”, Glasser office received communication in writing certified return receipt [7018 2290 0000 1551 9484] from Mr. Green disputing allocations under the FDCPA §1692 of the alleged consumer debt, and requesting validation of the contractual agreement, wet ink signature of the contractual obligation, the chain of title to the alleged consumer debt, explanation and show calculation of alleged consumer debt in the amount of \$13,060.11, name and address of **original creditor**, and to cease and desist all collection activities for at least 30 days to review proper documentations if provided by Defendants as defined by **15 U.S.C. §1692g(b)**.
11. On or about March 4, 2019, Mr. Green received a communication via direct mail from Glasser in response to Mr. Green 2nd request with no validation of a contractual agreement, no wet ink signature of the contractual obligation, no chain of title to the alleged consumer debt, no explanation and showing calculation of alleged consumer debt in the amount of \$13,060.11, nor name and address of original creditor.
12. On or about March 11, 2019, Glasser office received a 2nd communication in writing certified mail [7018 3090 0000 8408 4431] from Mr. Green disputing the validity of the incomplete material from Glasser dated February 28, 2019. Mr. Green requested Glasser to provide competent evidence with Original Account Level Documentation, Original Account Agreements, validation of the alleged consumer debt; meaning, the contractual obligation, wet ink signature of the contractual obligation, validation of the debt, to wit,

the chain of title to the debt, and to cease and desist all collection activities for at least 30 days to review proper documentations if provided by Glasser as defined by **15 U.S.C. §1692g(b)**. Glasser never responded to Mr. Green 2nd disputed written communication.

13. That on or about June 19, 2019, Defendants Bank of America, N.A. through its attorneys Robert L. Peresich and Glasser and Glasser, P.L.C. filed a Civil Complaint in the Union County Justice Court, North Carolina, alleging that Mr. Green was (a) indebted to the Plaintiff in the amount of \$13,060.11 for defaulting on a credit agreement and (b) prior demand has been made on Defendant, but Defendant has failed to pay \$13,060.11.
14. Mr. Green does not desire to overturn any ruling granted by the Union County Justice Court in this matter, nor does he desire to pursue any violation of the North Carolina Statutes committed therein; rather Mr. Green complains of distinct unlawful collection practices prohibited by the Federal Fair Debt Collection Practices Act.

FDCPA CLAIMS

15. That Mr. Green is a consumer, as defined by the **FDCPA, §1692a(3)**.
16. That the allege consumer debt that is the subject matter is a "consumer debt" as defined by **FDCPA §1692a(5)**.
17. That Defendant Glasser is a debt collector as that term is defined by the **FDCPA §1692a(6)**.
18. That Defendant Peresich, attorney for Glasser is a debt collector as that term is defined by the **FDCPA §1692a(6)**.
19. That Defendant Bank of America, N.A. claim to be the **original creditor which has not been proven**. An **original creditor** must prove:
 - a) there is a debt to be a creditor of;

- b) the debt is the Plaintiff;
- c) that they are the **original creditor** of the debt;
- d) their name and address of the **original creditor** as term defined by **FDCPA**

§1692g(a)(5).

20. **15 U.S.C. § 1692g** states in parts:

15 U.S.C. § 1692g – Validation of debts

Notice of debt; contents: Within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall, unless the following information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing—

- (3) a statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector;
- (4) a statement that if the consumer notifies the debt collector in writing within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector; and
- (5) a statement that, upon the consumer's written request within the thirty-day period, the debt collector will provide the consumer with the name and address of the **original creditor**, if different from the current creditor.

21. **15 U.S.C. § 1692g(b)** states in parts:

15 U.S.C. § 1692g(b) - Disputed Debts

If the consumer notifies the debt collector in writing within the thirty-day period described in subsection (a) that the debt, or any portion thereof, is disputed, or that the consumer requests the name and address of the **original creditor**, the debt collector shall cease collection of the debt, or any disputed portion thereof, until...

- (a) unless the consumer has notified the debt collector in writing that the debt, or any portion of the debt, is disputed or that the consumer requests the name and address of the **original creditor**.

22. As a result of Defendants violations of the FDCPA. Therefore, Mr. Green is entitled to actual damages pursuant to 15 U.S.C. §1692k (a)(1) against each and every Defendant; statutory damages in an amount up to \$ 1,000 pursuant to 15 U.S.C. § 1692k(a)(2)(A) against each and every Defendant.

COUNT I

CAUSES OF ACTION - FDCPA VIOLATION

23. Plaintiff repeats, re-alleges, each and every allegation stated above.
24. Defendants' aforementioned conduct violated FDCPA.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- a) Adjudging that Defendants violated the FDCPA;
- b) Award Statutory damages of \$1,000 as to each Defendant, pursuant to 15 U.S.C. §1692k;
- c) Such other relief as the Court may be just and proper.

DEMAND FOR TRAIL BY JURY

Plaintiff hereby demands a trial by jury of all issues so triable as matter of law.

Executed on this 26th day of August, 2019.

Respectfully Submitted,



Brian Green
113 Indian Trail Rd N, Suite 280
Indian Trial, North Carolina 28079
201.873.2037
briangreen350@gmail.com
Plaintiff *Pro Se*

UNITED STATES DISTRICT COURT
for the
Western District of North Carolina

BRIAN GREEN

Plaintiff)
v.) Civil Action No. 3:19CV424-RJC
ROBERT L. PERESICH)
GLASSER AND GLASSER, P.L.C.)
BANK OF AMERICA, N.A.)
+)
Defendant)

SUMMONS IN A CIVIL ACTION

TO: (Defendant's name and address)

Glasser and Glasser, P.L.C.
Attention: URS Agents, LLC
176 Mine Lake Court
Suite 100
Raleigh, NC 27615

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) – or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12(a)(2) or (3) – you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Brian Green
113 Indian Trail Rd N Suite 280
Indian Trail NC 28079-7808

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4(I))

This summon for *(name of individual and title, if any)*

was received by me on *(date)* _____.

- I personally served the summons on the defendant at
(place) _____
on *(date)* _____; or
- I left the summons at the individual's residence or usual place of abode with *(name)* _____, a person of suitable age and discretion who resides there, on *(date)* _____, and mailed a copy to the individual's last known address; or
- I served the summons on *(name of individual)* _____, who is designated by law to accept service of process on behalf of *(name of organization)* _____, on *(date)* _____; or
- I returned the summons unexecuted because _____; or
- Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

UNITED STATES DISTRICT COURT
for the
Western District of North Carolina

BRIAN GREEN

Plaintiff)
v.) Civil Action No. 3:19CV424-RJC
ROBERT L. PERESICH)
GLASSER AND GLASSER, P.L.C.)
BANK OF AMERICA, N.A.)
+)
Defendant

SUMMONS IN A CIVIL ACTION

TO: (*Defendant's name and address*)

Glasser and Glasser, P.L.C.
580 East Main Street, Suite 600
Norfolk, VA 23510

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) – or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12(a)(2) or (3) – you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Brian Green
113 Indian Trail Rd N Suite 280
Indian Trail NC 28079-7808

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4(1))

This summon for *(name of individual and title, if any)*

was received by me on *(date)* _____.

- I personally served the summons on the defendant at
(place) _____
on *(date)* _____; or
- I left the summons at the individual's residence or usual place of abode with *(name)* _____, a person of suitable age and discretion who resides there, on *(date)* _____, and mailed a copy to the individual's last known address; or
- I served the summons on *(name of individual)* _____, who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____; or
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ROBERT L. PERESICH)
GLASSER AND GLASSER, P.L.C.)
BANK OF AMERICA, N.A.)
+)
Defendant

SUMMONS IN A CIVIL ACTION

TO: (Defendant's name and address)

Erik Miller, Manager
c/o Bank of America, N.A. - Member
150 N. College Street, NC1-028-17-06
Charlotte, NC 28255

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) – or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12(a)(2) or (3) – you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Brian Green
113 Indian Trail Rd N Suite 280
Indian Trail NC 28079-7808

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Civil Action No.

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This summon for *(name of individual and title, if any)*

was received by me on *(date)* _____.

- I personally served the summons on the defendant at
(place) _____
on *(date)* _____; or
- I left the summons at the individual's residence or usual place of abode with *(name)* _____, a person of suitable age and discretion who resides there, on *(date)* _____, and mailed a copy to the individual's last known address; or
- I served the summons on *(name of individual)* _____, who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____; or
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- Other *(specify)*:

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Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

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for the
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BRIAN GREEN

Plaintiff)
v.) Civil Action No. 3:19CV424-RJC
)
ROBERT L. PERESICH)
GLASSER AND GLASSER, P.L.C.)
BANK OF AMERICA, N.A.)
+)
Defendant)

SUMMONS IN A CIVIL ACTION

TO: (*Defendant's name and address*)

Glaser and Glasser, P.L.C.
Attention: Charles C. Euripides, Member/Manager
6808 Queensberry Drive
Charlotte, NC 28226

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) – or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12(a)(2) or (3) – you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Brian Green
113 Indian Trail Rd N Suite 280
Indian Trail NC 28079-7808

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(place) _____
on *(date)* _____; or
- I left the summons at the individual's residence or usual place of abode with *(name)* _____, a person of suitable age and discretion who resides there, on *(date)* _____, and mailed a copy to the individual's last known address; or
- I served the summons on *(name of individual)* _____, who is designated by law to accept service of process on behalf of *(name of organization)* _____, on *(date)* _____; or
- I returned the summons unexecuted because _____; or
- Other *(specify)*:

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Plaintiff)
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ROBERT L. PERESICH)
GLASSER AND GLASSER, P.L.C.)
BANK OF AMERICA, N.A.)
+)
Defendant

SUMMONS IN A CIVIL ACTION

TO: (*Defendant's name and address*)

Robert L. Peresich
Glasser and Glasser, P.L.C.
580 East Main Street, Suite 600
Norfolk, VA 23510

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) – or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12(a)(2) or (3) – you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Brian Green
113 Indian Trail Rd N Suite 280
Indian Trail NC 28079-7808

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

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was received by me on *(date)* _____.

- I personally served the summons on the defendant at
(place) _____
on *(date)* _____; or
- I left the summons at the individual's residence or usual place of abode with *(name)*
_____, a person of suitable age and discretion who
resides there, on *(date)* _____, and mailed a copy to the individual's last
known address; or
- I served the summons on *(name of individual)* _____,
who is designated by law to accept service of process on behalf of *(name of organization)*

on *(date)* _____; or
- I returned the summons unexecuted because _____; or
- Other *(specify)*:

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